

Message Text

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TO AMEMBASSY CANBERRA

INFO AMEMBASSY MANILA

AMCONSUL SYDNEY

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E.O. 11652:N/A

TAGS: CFEP, CPRS, PFOR, SNAR, AS (GRIFFITH, MICHAEL)

SUBJECT: WANTED FUGITIVE FOR EXTRADITION

REF: CANBERRA 6897

MANILA FOR LEGATT

1. THERE FOLLOWS THE TEXT OF SECTIONS 11351 AND 1203.2,
AS REQUESTED REFTEL:

11351 - A PERSON WHO POSSESSES HEROIN FOR SALE SHALL BE
PUNISHED BY IMPRISONMENT IN THE STATE PRISON FOR A PERIOD
OF NOT LESS THAN 5 YEARS NOR MORE THAN 15 YEARS AND SHALL
NOT BE ELIGIBLE FOR RELEASE UPON COMPLETION OF SENTENCE
OR ON PAROLE OR ON ANY OTHER BASIS UNTIL HE HAS BEEN
IMPRISONED FOR A PERIOD OF NOT LESS THAN TWO AND ONE-HALF
YEARS IN THE STATE PRISON.

1203.2--

A) AT ANY TIME DURING THE PROBATIONARY PERIOD OF A PERSON
RELEASED ON PROBATION UNDER THE CARE OF A PROBATION
OFFICER PURSUANT TO THIS CHAPTER ANY PROBATION OR PEACE
OFFICER MAY WITHOUT WARRANT OR OTHER PROCESS AND AT ANY
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TIME UNTIL THE FINAL DISPOSITION OF THE CASE REARREST THE

PERSON AND BRING IM BEFORE THE COURT OR THE COURT MAY IN ITS DISCRETION ISSUE A WARRANT FOR HIS REARREST. UPON SUCH REARREST THE COURT MAY REVOKE AND TERMINATE SUCH PROBATION IF THE INTERESTS OF JUSTICE SO REQUIRE AND THE COURT IN ITS JUDGMENT HAS REASON TO BELIEVE FROM THE REPORT OF THE PROBATION OFFICER OR OTHERWISE THAT THE PERSON HAS VIOLATED ANY OF THE CONDITIONS OF HIS PROBATION HAS BECOME ABANDONED TO IMPROPER ASSOCIATES OR A VICIOUS LIFE OR HAS SUBSEQUENTLY COMMITTED ANY OF THE OFFENSES REGARDLESS WHETHER HE HAS BEEN PROSECUTED FOR SUCH OFFENSES.

B) UPON ITS OWN MOTION OR UPON THE PETITION OF THE PROBATIONER OR THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE PROBATIONER IS SUPERVISED THE COURT MAY MODIFY, REVOKE OR TERMINATE THE PROBATION OF THE PROBATIONER PURSUANT TO THIS SUBDIVISION. THE COURT SHALL GIVE NOTICE OF HIS PETITION TO THE PROBATIONER AND THE PROBATION OFFICER; AND THE PROBATIONER SHALL GIVE NOTICE OF HIS PETITION TO THE PROBATION OFFICER. THE COURT SHALL REFER ITS MOTION OR THE PETITION TO THE PROBATION OFFICER. AFTER THE RECEIPT OF A WRITTEN REPORT FROM THE PROBATION OFFICER THE COURT SHALL READ AND CONSIDER THE REPORT AND EITHER ITS MOTION OR THE PETITION AND MAY MODIFY, REVOKE OR TERMINATE THE PROBATION OF THE PROBATIONER UPON THE GROUNDS SET FORTH IN SUBDIVISION A) IF THE INTERESTS OF JUSTICE SO REQUIRE. THE NOTICE REQUIRED BY THIS SUBDIVISION MAY BE GIVEN TO THE PROBATIONER UPON HIS FIRST COURT APPEARANCE IN SUCH PROCEEDING.

C) UPON ANY REVOCATION AND TERMINATION OF PROBATION THE COURT MAY IF THE SENTENCE HAS BEEN SUSPENDED PRONOUNCE JUDGMENT FOR ANY TIME WITHIN THE LONGEST PERIOD FOR WHICH THE PERSON MIGHT HAVE BEEN SENTENCED. HOWEVER, IF THE JUDGMENT HAS BEEN PRONOUNCED AND THE EXECUTION THEREOF HAS BEEN SUSPENDED THE COURT MAY REVOKE SUCH SUSPENSION AND ORDER THAT THE JUDGMENT SHALL BE IN FULL FORCE AND EFFECT. IN EITHER CASE THE PERSON SHALL BE DELIVERED OVER TO THE PROPER OFFICER TO SERVE HIS UNCLASSIFIED

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SENTENCE LESS ANY CREDIT HEREIN PROVIDED FOR.

D) IN ANY CASE OF REVOCATION AND TERMINATION OR PROBATION INCLUDING BUT NOT LIMITED TO CASES IN WHICH THE JUDGMENT HAS BEEN PRONOUNCED AND THE EXECUTION THEREOF HAS BEEN SUSPENDED UPON SUCH REVOCATION AND TERMINATION THE COURT MAY IN LIEU OF ANY OTHER SENTENCE COMMIT THE PERSON TO THE DEPARTMENT OF THE YOUTH AUTHORITY IF

HE IS OTHERWISE ELIGIBLE FOR SUCH COMMITMENT.

E) IF PROBATION HAS BEEN REVOKED BEFORE THE JUDGMENT
HAS BEEN PRONOUNCED THE ORDER REVOKING PROBATION MAY BE

SET ASIDE FOR GOOD CAUSE UPON MOTION MADE BEFORE
PRONOUNCEMENT OF JUDGMENT. IF PROBATION HAS BEEN
REVOKED AFTER THE JUDGMENT HAS BEEN PRONOUNCED THE
JUDGMENT AND THE ORDER WHICH REVOKED THE PROBATION
MAY BE SET ASIDE FOR GOOD CAUSE WITHIN 30 DAYS AFTER
THE COURT HAS NOTICE THAT THE EXECUTION OF THE SENTENCE
HAS COMMENCED. IF AN ORDER SETTING ASIDE THE
JUDGMENT THE REVOCATION OF PROBATION OR BOTH IS MADE
AFTER THE EXPIRATION OF THE PROBATIONARY PERIOD THE
COURT MAY AGAIN PLACE THE PERSON ON PROBATION FOR
SUCH PERIOD AND WITH SUCH TERMS AND CONDITIONS AS IT
COULD HAVE DONE IMMEDIATELY FOLLOWING CONVICTION.

2. UNDER CALIFORNIA LAW, JUDGE HAD LEGAL AUTHORITY
TO SUSPEND SENTENCE IN THIS CASE AND PLACE GRIFFITH
ON PROBATION. INGERSOLL

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